

# Exhibit B

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER, MATTHEW  
RAY SPENCER, and KATHRYN E.  
TETZ,

Plaintiffs,

vs.

Case No: C11-5425BHS

CERTIFIED COPY

FORMER DEPUTY PROSECUTING  
ATTORNEY FOR CLARK COUNTY JAMES  
M. PETERS, DETECTIVE SHARON  
KRAUSE, SERGEANT MICHAEL DAVIDSON,  
CLARK COUNTY PROSECUTOR'S OFFICE,  
CLARK COUNTY SHERIFF'S OFFICE,  
THE COUNTY OF CLARK and JOHN  
DOES ONE THROUGH 10,  
Defendants.

\_\_\_\_\_  
VIDEOTAPED DEPOSITION OF

DEANNE SPENCER

Friday, November 16, 2012

Reported by Jennifer F. Milne, CSR No. 10894

1 APPEARANCES:

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Plaintiff Objects  
Basis: Dkt. 202  
(Plaintiff's Motions in  
Limine) at 16.

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10 THE VIDEOGRAPHER:

11 Sandra Lapointe



## I N D E X

## EXAMINATIONS

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1 BE IT REMEMBERED that on November 16, 2012,  
2 commencing at the hour of 9:41 a.m., at GOLDEN STATE  
3 REPORTING & VIDEO, 3800 Watt Avenue, Suite 201,  
4 Sacramento, California, before me, Jennifer Milne, a  
5 Certified Shorthand Reporter, empowered to administer  
6 oaths and affirmations pursuant to Section 2093(b) of  
7 the Code of Civil Procedure, personally appeared

8 DEANNE SPENCER,  
9 a witness herein, who, having been duly sworn, was  
10 examined and testified as follows:

11 (Exhibit Nos. 1 through 27 was  
12 marked for identification.)

13 THE VIDEOGRAPHER: Hello, my name is Sandra  
14 Lapointe, notary public, and I'll be videotaping today's  
15 proceedings.

16 I'm here on behalf of Golden State Reporting &  
17 Video located in Sacramento, California. We are here in  
18 the matter of Spencer versus Peters; Case Number  
19 C11-5424BHS for the United States District Court Western  
20 District of Washington at Tacoma.

21 The time on the video monitor is 9:41 a.m.  
22 Today's date is November 16th, 2012. Our location is  
23 Golden State Reporting & Video, 3800 Watt Avenue, Suite  
24 201, Sacramento, California.

25 This will be the deposition of DeAnne Spencer.

1 The attorney noticing this deposition is Patricia  
2 Fetterly. The court reporter is Jennifer Milne with  
3 Golden State Reporting & Video.

4 The attorneys will now introduce themselves and  
5 state their representations.

6 MS. ZELLNER: My name is Kathleen Zellner, and I  
7 represent the plaintiff, Ray Spencer.

8 MR. JOHNSON: Doug --

9 MS. FETTERLY: My name is -- go ahead. I'm  
10 sorry.

11 MR. JOHNSON: Doug Johnson, also for the  
12 plaintiff.

13 MS. FETTERLY: My name is Patricia Fetterly.  
14 I'm an Assistant Attorney General for the State of  
15 Washington. I represent the defendant, James Peters.

Objection  
-Id.

16 MR. BOGDANOVICH: Guy Bogdanovich on behalf of  
17 Defendant Sharon Krause.

18 MR. FREIMUND: I'm Jeff Freimund. I represent  
19 Defendant Michael Davidson.

20 THE VIDEOGRAPHER: The court reporter may now  
21 swear in the witness.

22 (Whereupon the witness, DeAnne Spencer,  
23 was sworn in.)

24 ///

25 ///



## EXAMINATION

BY MS. FETTERLY:

Q Ms. Spencer, would you please state your full name for the reporter, please.

A DeAnne Sue Spackman Spencer.

Q And where do you live?

A I live at -- my address?

Q Yes.

A It's 7 -- 7618 Lakewood Park Drive --

Q It's all right. It's okay.

A I'm sorry.

Sacramento, California 95828.

Q Thank you. Ms. Spencer, I recognize the subject matter of this deposition is very emotional to you. And, please, at any time if you feel you need a break, please let me know or the other attorneys if they happen to be questioning you.

Objection

-FRE 402

-FRE 403

Do you agree to that?

A I do.

Q Okay. And, again, I would emphasize that if you do feel you need a break, every effort will be made, of course, to accommodate that. Don't feel shy about that.

A Yes.

Q Is that agreed?

A Yes.

1 Q Okay. Now, are you presently married?

2 A No.

3 Q Have you ever been married?

4 A Once.

5 Q And what was the name of your -- is the name of  
6 your former spouse?

7 A Clyde Ray Spencer.

8 Q Do you have children?

9 A I do.

10 Q What are their names and their ages?

11 A Matthew Ray Spencer; he's 36. Kathryn Elizabeth  
12 Spencer Tetz; she is 32.

13 Q And can you give me a description of your  
14 educational background starting with high school.

15 A Graduated high school in 1968 from John F.  
16 Kennedy High School in Sacramento.

17 Q Now, did you grow up in the Sacramento area?

18 A I did from the time I was about five.

19 Q Okay. And then after high school, I take it  
20 you've had some higher education?

21 A It took about ten years of getting my  
22 associate's degree. And then in 2005, I attained my  
23 bachelor's degree.

24 Q And in what field did you obtain your bachelor's  
25 degree?



1 A Interdisciplinary studies, which is education.

2 Q Okay. And do you have an education credential?

3 A I have an emergency credential for teaching, but  
4 I'm not the -- the regular full-time credential.

5 Q And do you have teaching experience, work  
6 experience?

7 A Yes. I taught for eight years in a Catholic  
8 high school for girls, and I've been teaching for the  
9 past seven years as a preschool teacher and then an  
10 after-school program for K through 2nd.

11 Q And when you taught high school in the private  
12 Catholic school, what subjects did you teach?

13 A I was the computer teacher in business tech and  
14 the department chair.

15 Q And how long did you hold that position?

16 A Eight years.

17 Q And as far as your present employment, what are  
18 your duties?

19 A I have a preschool program in the morning where  
20 I teach -- I work with two other teachers, and we have  
21 24 children in our room for three hours. And then in  
22 the afternoon, we have a child care -- we provide child  
23 care and education for children who are at the school  
24 where I -- where our facilities are housed.

25 Q Okay. And as part of your academic training, do

Objection  
-FRE 402  
-FRE 403  
-Not  
disclosed  
as expert  
-Dkt. 202  
at

Objection (pp.  
11-12)  
-Id.

1 you have academic training in child development and  
2 similar subjects?

3 A Yes. I have over 40 units in early childhood  
4 education.

5 Q Now, turning to the time that you were married  
6 to Ray Spencer, when were you and he married?

7 A On August 28th, 1971.

8 Q How old were you when you and he married?

9 A 21.

10 Q And how long were you and he married?

11 A Ten years.

12 Q And I don't think I asked you: What is your  
13 date of birth?

14 A February 4th, 1950.

15 Q So your age today is?

16 A 62.

17 Q 62.

18 And when did you and Mr. Spencer separate?

19 A It was in 1979 in November, and I left -- I left  
20 the state of Washington, December 4th.

21 Q And that anticipates my next couple questions.  
22 At the time you separated, which I think you said was  
23 1979, were you and Mr. Spencer and your two children  
24 living in the state of Washington?

25 A Yes.



1 Q And were you actually living in Clark County,  
2 Washington?

3 A Well --

4 THE REPORTER: I'm sorry. I didn't hear you.

5 THE WITNESS: Battleground. I think that was  
6 Clark County.

7 MS. FETTERLY: (To the reporter) That's the name  
8 of the town.

9 BY MS. FETTERLY:

10 Q And what brought your family to that area  
11 originally?

12 A We had lived in L.A. and we decided we didn't  
13 want to raise our children there; so he looked into  
14 getting into law school in Sacramento or getting into  
15 the police department at Vancouver, which he eventually  
16 took.

17 Q So it was Mr. Spencer's employment with the  
18 Vancouver Police Department that brought you and the  
19 family, and he, of course, to the -- Washington?

20 A Correct.

21 Q And how old were your children at the time of  
22 your separation?

23 A Let's see. That was '84. So Matthew was five,  
24 and Katie was around two.

25 Q And can you -- who initiated the dissolution of



1 the marriage and the separation?

2 A Well, I filed. I filed.

3 Q And why did you elect to terminate the marriage?

4 A I felt that he was not -- sorry.

5 Q Take your time.

6 A He was not giving enough time and attention to  
7 his children. I felt they -- sorry.

8 Q Take your time.

9 A He was not -- he was not giving the time and  
10 attention to his children. I felt he was neglecting  
11 them and then there was -- we had a big fight. And he  
12 sent me away to L.A., then called me and told me "Don't  
13 bother coming home," to send Matthew home when I was  
14 through and I could go ahead -- he sent me my clothes,  
15 and I could run the streets with my girlfriend.

16 Q Those were his words, that you could, quote,  
17 "run the streets"?

18 A Yes.

19 Q Were you offended by that comment?

20 A I was devastated.

21 Q Because I take it that was not what you were  
22 doing?

23 A No.

24 Q Okay. During the time of your marriage, was  
25 Mr. Spencer ever unfaithful to you?

Objection  
(pp. 14-15)  
-Dkt. 202  
at 5-7  
-FRE 402  
-FRE 403  
-This  
testimony  
has no  
relevance  
or  
probative  
value to  
the issues  
in this  
case. The  
defense has  
never cited  
this  
testimony  
as adding  
anything to  
the case.

1       A   Yes.

2       Q   On one occasion or more than one occasion?

3       A   More than one.

4       Q   Did this factor into your decision to terminate  
5 the marriage?

6       A   No, not really; because I felt that I made the  
7 decision to allow that to happen. But it was -- I'm  
8 sorry.

9       Q   Go ahead.

10      A   It was my decision to allow his behavior. I  
11 believed it was what police officers did, and I excused  
12 it. But when it started to affect my children and their  
13 relationship with him, I couldn't -- I didn't want that  
14 to go on anymore.

15      Q   Now, did you receive primary custody of your two  
16 children following the separation and divorce?

17      A   I did.

18      Q   Did you eventually return to the Sacramento  
19 area?

20      A   I did.

21      Q   Okay. And why did you make that decision?

22      A   I grew up in Sacramento. My entire family was  
23 here, and I felt that would be the best place to raise  
24 them with the social support that I would have.

25      Q   And approximately when did you relocate back to



1 Sacramento?

2 A December 4th.

3 Q Of what year?

4 A 1979.

5 Q And you've been here, and basically the children  
6 also been here, ever since?

7 A Yes.

8 Q Initially following the separation and divorce,  
9 did Mr. Spencer have rather extensive visitation rights  
10 with the children during holidays and during the summer?

11 A He had two weeks at Christmas, a week at Easter,  
12 I think, and then six weeks in the summer. And I think  
13 one summer he was there for longer, like, eight or nine  
14 weeks. I can't remember. But it was six weeks that  
15 they were there, minimum.

16 Q Okay. Now, at some point, did you learn that  
17 Mr. Spencer had remarried?

18 A Yes. I think it was the -- 1983, the third  
19 summer when he came down to get them. And he said, "Oh,  
20 by the way, I'm getting married." And I -- I thought it  
21 was to Karen, the person I know that he had been living  
22 with, and he said, "Oh, no. It's to Shirley," who I  
23 didn't know.

Objection  
-FRE 402  
-FRE 403

24 Q And Karen would be Karen Stone?

25 A Yes.

1 Q That was a girlfriend of his?

2 A Yes.

Objection  
-Id.

3 Q Okay. And what was your reaction to the fact  
4 that he was getting married again? Did you have any  
5 feelings of jealousy or anything like that?

6 A No. I was just a little surprised that it  
7 wasn't Karen, and then I was -- I had, you know, a  
8 little bit of concern about the fact that the kids  
9 didn't know this person that was going to be their  
10 stepmother.

11 Q So did the children go to visit their father in  
12 the summer of 1983?

13 A Yes.

14 Q Okay. And where was he living at this time,  
15 "he" being Ray Spencer?

16 A I believe he was living with Shirley in her  
17 home. I don't know.

18 Q Okay. Did you learn later that that was a house  
19 that was on a river?

20 A I learned that they did live in a house on the  
21 river.

Objection  
-Lack of  
foundation  
-Lack of  
personal  
knowledge  
-FRE 602

22 Q And that that was Shirley's home --

23 A Yes.

24 Q -- at least she owned before her marriage to  
25 Ray?



1       A   Yes. Yes.

2       Q   And then was -- going into the next year, did  
3   the visitations continue into -- after the summer of  
4   1983, for example, Christmas and maybe Easter?

5       A   Yes.

6       Q   Okay. And was there visitation -- extensive  
7   visits scheduled for the summer of 1984?

8       A   Yes. They went up for six weeks.

9       Q   Six weeks. And I want to direct your attention  
10   to the time frame before the children left for that  
11   visit with their father and now their stepmother,  
12   Shirley Spencer, in the summer of 1984.

13       Did she --

14       MR. JOHNSON: Sorry to interrupt. Could I just  
15   ask the witness to speak up a little bit. We're having  
16   just a little bit of trouble.

17       THE WITNESS: Yes. I'm sorry.

18       MS. FETTERLY: Could I move the phone closer to  
19   her? She's very soft-spoken.

20       MR. JOHNSON: I understand.

21       THE WITNESS: I can boom if you want me to.

22       MS. FETTERLY: Let's get it a little closer,  
23   because I agree it's very -- I don't feel guilty about  
24   that.

25       THE WITNESS: Is that better?

Objection  
-Not  
relevant to  
the testimony



(cont.)

1 MS. ZELLNER: Yes, that's much better.

2 THE WITNESS: Okay.

3 MS. FETTERLY: Let me move some documents out of  
4 the way.

5 BY MS. FETTERLY:

6 Q Referring Ms. Spencer to that time frame; in  
7 other words, you were anticipating the children going  
8 back to their father and stepmother's home. And this  
9 was still the house on the river; is that right?

Objection  
-Lack of  
foundatio  
n and  
personal  
knowledge  
-FRE 602

10 A Well, I had visited the house once, and it  
11 wasn't the house on the river. It was a different  
12 house. So I'm assuming it was a house on the river they  
13 were going to.

14 Q Okay. In anticipation of this visit, did you  
15 notice any particular behavior on Katie's part that you  
16 observed, as her mother, as being unusual?

17 A Yes. She was -- for about a month before,  
18 almost on a daily basis, she was very upset and did not  
19 want to go but wouldn't say why.

Objection  
-Dkt. 202  
at 21  
-FRE 402  
-FRE 403  
-Hearsay  
without  
exception  
under FRE  
802

20 Q Okay. Did you try to talk to her about why she  
21 might not want to go?

22 A I did. But she would just say she didn't want  
23 to go, and I would tell her that -- I actually told her  
24 that I didn't have a whole lot of say-so about it, that  
25 the Courts had said that, you know, she should go up

1 there. And if she was not comfortable about it, that  
2 she should talk to her dad.

3 Q And what about her brother, Matt? Did you  
4 notice anything particularly unusual about his behavior  
5 before this summer visit?

6 A There was an incident where he -- about two  
7 weeks before, he related to me a nightmare that he had.  
8 And it was about a party and a bunch of people at their  
9 house and how he was worried about, you know, Katie  
10 falling off the balcony. And I said, "Well, you have  
11 some say-so over that. You can keep your sister off the  
12 balcony if you're not comfortable. Talk to your dad  
13 about it." And he said, "What if the guys" -- "What if  
14 everybody gets all crazy?" And I said, "Well, again,  
15 talk to your dad and just, you know, keep your  
16 sister" -- "You and your sister stay off the balcony."

17 Q And was this a balcony that was on a deck  
18 overlooking the river?

19 A I think so.

20 Q Is that what he described?

21 A Yes.

22 Q Okay. Was that consistent with what you  
23 understood to be the description of Shirley Spencer's  
24 home?

25 A Yes.

(cont.)

Objection  
-Dkt.  
202 at 21  
-FRE 802  
hearsay  
without  
exception  
-FRE 402  
-FRE 403

Objection

-Id.

-Lack of foundation and  
personal knowledge under  
FRE 602



1 Q Was there any mentioned when Matt related this  
2 dream to you about any -- what he called "daddy's  
3 friends" being there in this dream?

4 A Just, you know, a bunch of people getting --  
5 "What if a bunch of people get crazy?" I think is what  
6 he said.

7 Q Those were his words?

8 A Uh-huh.

9 Q Was there any mention, when he relayed his  
10 nightmare to you, about a hot tub?

11 A He had said something to me about there being a  
12 hot tub. I don't know if that was in reference to a  
13 nightmare or just telling me about the hot tub and the  
14 bubble bath.

15 Q Now, did -- what was your reaction when Matt  
16 told you about this upsetting dream?

17 A I was concerned. But, again, I -- I didn't know  
18 what it was about, and I just thought that maybe the  
19 kids didn't want to be away from me. I didn't know.

20 So I just tried to, you know, comfort him and  
21 let him know that if he was really frightened, that when  
22 he got up there, he can talk to his dad.

23 Q How would you describe the communication between  
24 you and Mr. Spencer in this time frame about the  
25 arrangements of the visitation and similar matters?

Objection  
-FRE 802  
Hearsay without  
exception  
-FRE 402  
-FRE 403  
-Speculative  
testimony  
-Lack of  
personal  
knowledge  
FRE 602

1 A It was limited. It was limited.

2 Q Okay. Did you bear him any ill will at this  
3 point at all?

4 A No. No. I was home with my family, and...

5 Q And did the visitation proceed --

6 A Yes.

7 Q -- as planned? The summer of '84, that is.  
8 Who provided the transportation?

9 A I think he came down and picked them up. I  
10 can't remember if I drove them up or if he came down.

11 Q And what about to retrieve them?

12 A I drove up to pick them up, and I was informed  
13 that I would need to go to the Battleground Police  
14 Station because he would -- he was going to be out of  
15 town. So I was to meet Shirley at the Battleground  
16 Police Station.

17 Q And approximately what time frame was this?

18 A What do you mean?

19 Q A date. Was it in August?

20 A August 20 -- it was the Sunday? August 24th, I  
21 believe.

22 Q And that's when you met Shirley Spencer?

23 A Correct.

24 Q At the Battleground Police --

25 A Correct.



1 Q -- Station and picked up the children?

2 A Yes.

3 Q Did you have any conversation with Shirley on  
4 that occasion, that you recall?

5 A Just, you know, "How are you? Here's the kids."

6 Q She didn't relay anything unusual about the  
7 visitation to you?

8 A No.

9 Q Then did you return home as planned to  
10 Sacramento with the children?

11 A I did.

12 Q Okay. And then how old was Katie at this time?

13 A Let's see. Five. '84. Yeah, five.

14 Q Okay. And was she starting school that year?

15 A Kindergarten, yes.

16 Q And what about Matt? How old was he?

17 A Let's see. He would have been eight, nine.

18 Sorry. Well, my math is not really good right at the  
19 moment. I think he's about three or four years older  
20 than her.

21 Q Now, directing your attention to the date,  
22 August 29th, 1984. By this time you and the children  
23 are back in your home in Sacramento; is that right?

24 A Yes.

25 Q And who was in your household at this time?



1 A My two children and I.

2 Q Okay. No one else?

3 A No. A babysitter that was there with them  
4 during the day, but...

5 Q A female babysitter?

6 A Yes.

7 Q And were you working at this time?

8 A I was.

9 Q What were -- where were you working?

10 A I was working for --

11 THE REPORTER: I'm sorry. "I was working  
12 for" --

13 THE WITNESS: New West Dialysis.

14 THE REPORTER: Thank you.

15 BY MS. FETTERLY:

16 Q And did any -- and directing your attention to  
17 when you were coming home from work that day. Was there  
18 any -- did anything unusual occur when you pulled up in  
19 front of your house or entered your driveway?

20 A Yes. When I pulled into the driveway, there was  
21 a tall, blond man standing there. And when I got out of  
22 the car, he introduced himself as Pat Flood, and he said  
23 "I'm from the Juvenile Division."

Objection (continued  
to next page)

24 Q Take your time. Take your time.

25 A This is so --

1 Q Take your time.

2 A "I'm from the Juvenile Division." And I  
3 thought, "Oh, God. He's got custody." And then --

4 Q Who are you referring to when you say "he"?

5 A My ex-husband.

6 And then in the next breath, he said, "There's  
7 been a report that your daughter has been molested. And  
8 my partner and I have been here for two hours. We had  
9 to make sure that your children were safe and not in any  
10 imminent danger." And so I -- I started to collapse,  
11 and he said, "You need to maintain. Your children are  
12 watching out the door so you need to maintain" so I did.  
13 He said, "We've been here for two hours. It's obvious  
14 that they're not in any imminent danger. We're going to  
15 redirect the investigation back up north."

16 Q Okay. Did you take that to mean that you were  
17 even possibly a suspect in regard to these allegations?

18 A I did not believe it at that time.

19 Q You learned it later?

20 A Yes.

21 Q Okay. But was it clear, then, in your  
22 communication with Detective Flood that he and his  
23 partner didn't feel the children were in any way in  
24 danger in your home?

25 A Yes. Correct.

Objection  
(continued  
from  
previous  
page)

-FRE 402

-FRE 403

-FRE 802

-FRE 602

lack of

foundation

and

personal

knowledge

-This is

completely

irrelevant

baseless

speculative

and hearsay

testimony



1 Q Now, directing your attention to the next day,  
2 August 30th, what happened on that date that you  
3 remember specifically about these incident -- this  
4 incident?

5 A I -- the company that I worked for, my boss, her  
6 husband worked for the Child Abuse Council. And when I  
7 called her to tell her what was happening, she said,  
8 "We're going to need to get her an examination." So I  
9 spoke with a social worker at my office and asked her  
10 "How do I go about this? What do I do?" And she said,  
11 "You make an appointment at U.C. Med Center." And I  
12 said, "What do I tell my daughter?" And she says, "You  
13 tell her" -- sorry. I thought I can handle this better.

14 Q Take your time.

15 A She said, "Tell her that her" -- "that you know  
16 that her daddy's touched her in places daddies aren't  
17 supposed to touch little girls," and you needed to make  
18 sure she wasn't hurt.

19 Q And you knew that from what Detective Flood told  
20 you her allegations were?

21 A Yes.

22 Q Were you -- how were you feeling about this  
23 whole situation at this time?

24 A I -- for a while, I felt at a loss. I was  
25 devastated, but I knew that first and foremost I had to

Defendants  
represent  
that they  
may try to  
introduce  
this  
testimony  
if certain  
motions in  
limine are  
denied.  
Plaintiff  
objects on  
hearsay,  
relevancy,  
FRB 403,  
and lack  
of  
personal  
knowledge  
grounds.  
This is  
clearly  
inadmissib  
le hearsay  
that is  
attempting  
to  
distract  
the jury.



1 make sure that my kids were --

2 MS. FETTERLY: Why don't we take a break. Let's  
3 take a break.

4 THE VIDEOGRAPHER: Okay. We're going to go off  
5 the record. It's 10:04 a.m.

6 (Brief recess.)

7 THE VIDEOGRAPHER: We're back on the record.  
8 It's 10:09 a.m.

9 BY MS. FETTERLY:

10 Q Before we had a break, Ms. Spencer, we were  
11 talking about the fact that you had arranged to have a  
12 medical examination of Katie.

13 A That's correct.

14 Q And we've established that was on August 30th,  
15 1984.

16 Where did that examination take place?

17 A It took place at U.C. Med Center in Sacramento.

18 Q And that is a Davis campus, I take it?

19 A Yes.

20 Q And did you -- as you were advised to by, you  
21 said, a social worker. Did you have a discussion with  
22 Katie at that time before the examination --

23 A I did.

24 Q -- as to what would happen at this examination?

25 A What I said to her was -- we were in the car,

Objection  
continued  
from  
previous  
page

Objection  
-Hearsay,  
irrelevant  
, and  
lacking  
probative  
value  
substantia  
lly  
outweighed  
by FRE 403  
factors

1 and we were on our way, and she was looking at me, like,  
2 you know, what's going on? And I said, "Well, we know  
3 that daddy's touched in you places that daddies aren't  
4 supposed to touch little girls. And we want to make  
5 sure you're not hurt."

6 Q Okay. And what was her response?

7 A She curled into a ball, rolled to the side of  
8 the door and began yelling, "Mommy, please don't let  
9 them touch me there. Please don't let them touch me  
10 there."

11 Q Did you proceed to the medical center, then?

12 A I did.

13 Q Okay. And who was present when -- when the  
14 examination, at least attempted examination, took place?

15 A There was a female doctor, a female nurse, and a  
16 female social worker and myself.

17 Q And what happened during this process? And you  
18 were present the entire time; is that right?

19 A Yes.

20 Q So describe what happened during -- when you and  
21 Katie and the medical staff were in the examination  
22 room?

23 A They -- we took her shoes off and then the  
24 doctor started to -- she was sitting on my lap. And the  
25 doctor started to take her tights off, and she began

Objection  
continued  
from  
previous  
page

Objection  
(pp.  
28-30)  
-Id.  
- Dkt.  
202 at 21



1 screaming and kicking and yelling. And none of us could  
2 get them off of her.

3 Q Was there ever, on this occasion, a vaginal  
4 examination done of your daughter on that date?

5 A No.

6 Q Okay. What type of examination, if any, was  
7 done -- and this was while she was on your lap; is that  
8 right?

9 A She was on my lap, yeah.

10 Q Was she ever on an examination table?

11 A No.

12 Q Okay. Were there any instruments inserted into  
13 her?

14 A No.

15 Q Was the physician even able to probe into her  
16 vaginal area?

17 A No.

18 Q Okay. So what was examined, if anything, during  
19 this examination?

20 A Nothing.

21 Q And that was because --

22 A We couldn't -- she was hysterical. We could not  
23 get her tights off. She still had her dress on. We  
24 couldn't get her tights off.

25 Q Handing you what has been marked as Exhibit

Objection  
continued from  
page 28



1 Number 3, can you identify this document?

2 A Yes.

3 Q And what is it, to the best of your knowledge?

4 A It's the medical report from that visit, it  
5 looks like.

6 Q It's a three-page document?

7 A Correct.

8 Q Would you agree that on the third page there's a  
9 handwriting that says "No physical finding"?

10 A That's correct.

11 Q And how do you explain that particular finding?  
12 Was that following an actual vaginal examination?

13 A No.

14 Q Okay. How would you explain the writing of  
15 those conclusions?

16 A I can't explain it.

17 Q Could there possibly be no physical findings  
18 because an actual examination was not done, an actual  
19 pelvic examination was not done?

20 A That would be my assumption.

21 Q And then did you take Katie home that day after  
22 the examination?

23 A Actually, the social worker -- I was told while  
24 I was there that there's been an apparent trauma. You  
25 need to get her into some sort of counseling or therapy.

Objection  
continued  
from page  
28.  
Additionally, Ms.  
Spencer has  
not set  
foundation  
to be able  
to identify  
or discuss  
the report.  
Her  
conclusions  
about the  
report are  
completely  
speculative

Objection  
-  
Hearsay,  
irrelevant,  
FRE

1 And I was given the name of the Victim/Witness Program.  
2 I went home and picked up my son and drove them to the  
3 Victim/Witness Program that day.

4 Q And what happened after you met with and your  
5 children met with people in the Victim/Witness Program?

6 A We were referred to a psychologist or  
7 psychiatrist, I forget; a gentleman who then found a  
8 therapist for Katie and a therapist for Matt. And I  
9 also had one for a while.

10 Q And did the therapy begin at that time?

11 A Within the week.

12 Q Okay. And how long did that therapy actually  
13 continue?

14 A It was pretty intensive for the first few years,  
15 and then they each got a new therapist over the -- over  
16 the course of about ten years, it was on and off. As  
17 they grew older and mature, the therapist would tell us,  
18 "Well, they've reached a certain point." So, you know,  
19 they would -- I guess they would stop. They didn't have  
20 to go as much.

21 Q Did you ever have any communication in this time  
22 frame and later with your children's therapists?

23 A There was a few occasions. Like there was the  
24 first few occasions with Katie when I was in the room  
25 with her.

Objection  
-FRE 402  
and 403



1 Q Okay. Were you ever informed by any -- any  
2 therapists by your children that in the opinion of any  
3 of the therapists, the allegations of abuse concerning  
4 Katie were fabricated?

5 A I was not.

6 Q Okay. What was your impression in your  
7 discussions with the therapist? Did they ever question  
8 that abuse had or had not taken place?

9 A They did not question it. There was -- as far  
10 as I can remember, there was no question.

11 Q And that was initially with Katie?

12 A Yes.

13 Q And then later with Katie and Matthew as well?

14 A Matthew was also -- at the same time he started  
15 him with a therapist, Connie Nichols, because they  
16 said -- at Victim/Witness they told me that siblings or  
17 anybody in the range would also need to be counseled.

18 Q So initially it wasn't because he was thought to  
19 be a victim but because he was a family member --

20 A Yes.

21 Q -- would that be accurate?

22 A Yes.

23 Q But as far as Katie in this initial time frame,  
24 meaning August through, say, February of '84 through  
25 February, March of the following year -- did Katie's

Objection. This is  
blatant hearsay. It  
is speculative. It  
is introduced only  
confuse the  
jury. Ms.  
Spencer is not  
permitted to attempt  
to recall,  
"as [she] remember"  
what her  
"impression" was of  
another witness's  
conclusion.



1 therapist ever state to you, "I think she made these  
2 allegations up"?

3 A No.

4 Q Did she ever state to you, "she" being the  
5 therapist, "I don't think anything actually happened"?

6 A No.

7 Q Was it your understanding that the therapy she  
8 was pursuing with Katie was that she had been -- in  
9 fact, been improperly touched by her father?

10 A Yes.

11 Q Did -- and -- in the same time period, did you  
12 notice any unusual behavior on Katie's part that may or  
13 may not, based on your understanding of child  
14 development, have been consistent or inconsistent with  
15 physical sexual abuse?

16 A At times I felt uncomfortable of some of her  
17 behaviors, especially around, oh, like her uncles --  
18 it's so long ago.

19 Q I know.

20 A But I just -- I can't put my finger on it. I  
21 was just uncomfortable.

22 Q Okay. Did you ever observe her to rub her  
23 genital area in this time frame?

24 A Yes; but I didn't think anything of it.

25 Q Did she ever ask you to apply medicine to her

Defendants  
did not  
include  
pages 33  
through 35  
in their  
submission  
to  
plaintiff.  
In the  
event  
defendants  
seek to  
introduce  
any  
testimony  
on pages  
33  
through 35,  
plaintiff  
objects  
on grounds  
set forth  
in dkt. 202  
at 22, and  
FRE 802,  
402, 403.

Additionally,  
testimony in these  
pages is improper  
for a lay  
witness such as Ms.  
Spencer, who was  
not disclosed as an  
expert and is not  
qualified to  
provide expert  
testimony

1 genital area in this time frame?

2 A Yes.

3 Q Okay. Had you ever done that in the past?

4 A She had a sore like on the top of the vaginal  
5 area, not inside, but on the top. And when I took her  
6 to the doctor, he said it was a viral infection. And he  
7 gave me medication to put on.

8 Q And how -- when did this occur in relation to  
9 the fall of 1984 time frame? Was it in the same time  
10 frame, or was that earlier?

11 A I'm sorry. I don't remember.

12 Q Okay. Do you think it was before, possibly?

13 A Yeah, I do believe it was before.

14 Q Okay. Did you notice anything unusual about the  
15 nightgown Katie brought back from her visits with her  
16 father in the summer of 1984?

17 A It just seemed to be worn, you know. A little  
18 strangely -- I mean worn -- worn out.

19 Q Can you be more specific? Was it fraying at the  
20 sides or any particular place or --

21 A More of in the area of where she might have had  
22 her underwear.

23 Q Go ahead. Take a break.

24 A Okay.

25 Q And your response was more in her underwear

Plaintiff  
continues  
objection  
stated on  
page 33.

1 area?

2 A Yeah. Yes.

3 Q And what particularly did you notice about that  
4 nightgown in that regard?

5 A I just remember it said "Daddy's Little  
6 Princess" on it. It made me very uncomfortable. I  
7 can't tell you why.

8 Q Okay. What did you do with that nightgown?

9 A I threw it away.

10 Q Was that after the allegations of abuse had  
11 been -- had surfaced?

Plaintiff  
continues  
objection  
stated on  
page 33.

12 A Yes.

13 Q Did you learn at some point that you were  
14 actually a suspect; that your former husband was telling  
15 authorities up in Clark County that it was actually you  
16 or possibly a man in your home that was abusing Katie?

17 A Yes.

18 Q Okay. And when, approximately, did you learn  
19 about that?

20 A It was -- it was not long after Pat Flood had  
21 come over. I mean, it was within that few-months time  
22 period. I don't remember exactly when.

23 Q And at that time, were there any men living in  
24 your household?

25 A No.



1 Q Had there ever been?

Plaintiff continues  
objection from page 33.

2 A No.

3 Q Were you actively -- pursuing an active social  
4 life with men at that time?

5 A Only when my children weren't there.

6 Q Then you would occasionally date?

7 A Yes.

8 Q But no one was living in the home?

9 A No.

10 Q Okay. Did you ever have a -- what has been  
11 described by Mr. Spencer as a black boyfriend at this  
12 time -- in this time frame?

Objection

13 A I did.

-FRE 402, 403, and 802.

14 Q At one time you did?

This is completely irrelevant  
testimony only meant to deter  
from issues in this case.

15 A Yes.

16 Q Okay. And was he living in the home?

17 A No.

18 Q You have been described that you were, quote,  
19 "running the streets" in this time frame by Mr. Spencer.

20 Is that an accurate description of your life --  
21 of what you were doing in this time frame?

22 A No. I was actually working and taking my  
23 children -- we had three days a week that I had to make  
24 arrangements to get to different therapies, and I made  
25 arrangements to get them into things like gymnastics.

1 Anything I could do to find -- to give them as healthy a  
2 life as I possibly could during the turmoil.

3 Q What about immediately before this time frame?  
4 The records indicate that Mr. Spencer told law  
5 enforcement in Clark County that he was concerned that  
6 someone in your home, specifically a man in your home,  
7 might possibly have touched Katie. Could that have been  
8 possible?

9 A Absolutely not. They were never -- I never left  
10 them alone with any man. And so anytime -- a couple of  
11 people that they did meet were only in my presence.  
12 And -- no, absolutely not.

13 Q Okay. Would Katie possibly have gotten a  
14 cigarette burn in your home?

15 A No.

16 Q Do you even smoke?

17 A No.

18 Q Would you have smoked something that could be  
19 described that smelled funny such as marijuana in this  
20 time frame in front of your children?

21 A Not in front of my children, no.

22 Q Okay. So what was the focus of your life,  
23 really, since your separation up through the time your  
24 children were grown?

25 A My only focus and my only intention and my only

(contin  
ued  
objecti  
on)

Objection  
-Id. This  
is more  
irrelevant  
testimony  
based on  
hearsay.

See next  
page.



1 concern was providing them with the best possible life I  
2 could, getting them the best care I could so that they  
3 grow to be healthy; healthy and happy, well-adjusted  
4 people.

5 Q And did you have to provide financial support  
6 for them as well?

7 A Yes.

8 Q And did this take a considerable amount of your  
9 time as well?

10 A Yes.

11 Q Okay. Were -- did you have particular animosity  
12 against your former husband in this time period where  
13 you were -- might wish to frame him for a crime he did  
14 not commit?

15 A My only concern is my children.

16 Q In fact, were you hoping these allegations were  
17 true?

18 A I did not want them to be true because then if  
19 that's the case, then my children went through hell.  
20 But I -- I believed it and so I did what I could for  
21 them.

22 Q Okay. Did you conspire or agree with Shirley  
23 Spencer in this time frame to have Ray charged with a  
24 crime that he didn't commit?

25 A No.

Objection  
to all  
questions  
on page 38  
(and spill  
over from  
37) in  
accord with  
dkt. 202 at  
21. This  
testimony  
is  
irrelevant,  
lacks  
probative  
value to  
the issues  
in this  
case, is  
unfairly  
prejudicial  
, is  
intended to  
confuse the  
jury, and  
calls for  
legal  
conclusions



1 Q Did you have any contact with Shirley Spencer  
2 during this time frame?

3 A No.

4 Q Okay. I'm handing you what has been marked as  
5 Exhibit 27, which is a report of the Clark County  
6 Sheriff's Office, dated August 30th, 1984, the day after  
7 you met with Detective Flood, and includes a handwritten  
8 statement, which has been established was written by  
9 Shirley Spencer.

10 Can you take a minute or two to just review the  
11 portion of this exhibit that concerns Shirley Spencer's  
12 handwritten statement.

13 A Do you want me to look at what's highlighted?

14 Q No. Just this. Just take a few minutes. Take  
15 as much time as you need to read the statement.

16 Ms. Spencer, have you had an opportunity to  
17 review that seven-page handwritten statement prepared by  
18 Shirley Spencer?

19 A I have.

20 Q Okay. Would you -- have you seen that --  
21 actually seen that document before?

22 A No, I have not.

23 Q Would you agree that that document details some  
24 very specific sexual knowledge on the part of your  
25 daughter who was then age five?

Plaintiff  
objects to  
the line of  
questioning  
on pages 39  
and 40  
based on  
FRE 602,  
702, and  
dkt. 202 at  
21. This  
is improper  
speculative  
opinion  
testimony.  
It is also  
irrelevant  
and its  
probative  
value is  
substantial  
ly  
outweighed  
by FRE 403  
factors.

1       A Yes, it does.

2       Q Do you know how she would have known that  
3 information?

4       A I do not.

5       Q Okay. Could she have learned any of those  
6 things from anything in your home?

7       A No.

8               MR. JOHNSON: Objection. Speculation.

9 BY MS. FETTERLY:

10       Q Why do you say "no"?

11       A I didn't have anything in my home that would be  
12 objectionable.

13       Q You didn't have pornography?

14       A I didn't have pornography. I didn't have books  
15 or anything along that line or anything.

16       Q Did you ever discuss matters such as this,  
17 meaning details of sexual matters, with your  
18 five-year-old daughter?

19       A I did not.

20       Q Now, assuming Ms. Shirley Spencer did, in fact,  
21 bring these -- this statement forward in August of 1984,  
22 would you want -- and this statement concerning what  
23 your daughter had told her, would -- would you want  
24 these statements investigated?

25       A Absolutely.

Continued  
objection  
from page 39



1 Q These allegations investigated?

2 A Absolutely.

Objection  
-FRE 402 and  
403.

3 Q Would you want law enforcement to simply  
4 disregard it as the mere fantasy of a five-year-old  
5 child?

6 A Absolutely not.

7 Q And did you communicate in any way with Shirley  
8 Spencer in this time frame about these allegations?

9 A I did not.

10 Q Okay. I think you testified that you met her a  
11 day or two after -- well, she dates this August 24th --  
12 that you met her a day or two later and picked up your  
13 children from her; is that correct?

14 A It was a Sunday. The Sunday before -- the 29th  
15 was a Sunday before the -- Wednesday, the 29th, whatever  
16 that day was.

17 Q So would it be fair to say that you were not  
18 part of any conspiracy with Shirley to falsely accuse  
19 her then husband and your former husband, Ray Spencer?

Objection  
-FRE 402,  
403, 602,  
702.  
Improper and  
irrelevant  
opinion  
testimony on  
a legal  
conclusion.

20 A I was not.

21 Q Okay. Could you describe yourself as a -- a  
22 pawn in a conspiracy that Shirley and others might have  
23 been involved in to falsely accuse Ray Spencer of a  
24 crime?

25 A No.



1       Q   What was your only concern in this time  
2   frame once you learned about these allegations?

Objection  
-FRE 402  
and 403.

3       A   My children.

4       Q   And you -- as you indicated earlier, you  
5   actually were a suspect at one point as someone who  
6   might have possibly improperly touched your daughter?

7       A   Correct.

8       Q   Were you rather quickly ruled out as a suspect?

9       A   I was.

10      Q   Did you ever make a statement to law enforcement  
11   during this time frame that you don't remember if you  
12   sexually touched your daughter or words to that effect?

Objection  
-Id.  
-Leading

13      A   No.

14      Q   What was your position throughout?

15      A   My position about me?

16      Q   Yes. About --

17      A   I never have.

18      Q   And did you make that very clear from the  
19   beginning?

20      A   I did.

21      Q   Did you volunteer to take a polygraph?

22      A   I did.

23      Q   And did you take that polygraph?

24      A   I did.

25      Q   And what were the findings of the polygraph?

1 A My understanding was it was -- I don't know if  
2 you call it conclusive. I was telling the truth.

Objection  
-FRE 802  
-FRE 602  
-FRE 701  
and 702.

3 Q So you were then ruled out as a suspect totally?

4 A Correct.

5 Q Now, once you were ruled out as a suspect, do  
6 you -- based on what Shirley Spencer wrote in this  
7 seven-page document, would you have wanted the  
8 investigation to just stop?

Objection  
-FRE 402,  
403, dkt. 202  
at 21-22.

9 A Absolutely not.

10 Q And why is that?

11 A It -- with what I was experiencing with my  
12 children and with their behaviors and with the  
13 information that I had, I wanted to make sure that this  
14 didn't happen again to them.

15 Q And there was an investigation pursued that you  
16 participated in as a witness, was there not? An  
17 investigation by the Clark County Sheriff's Office?

18 A Correct.

19 Q And do you recognize the name Sharon Krause?

20 A I do.

21 Q And who is Sharon Krause?

22 A She was the detective handling the case.

23 Q For Clark County, Washington?

24 A Correct.

25 Q And when -- do you recall first -- we know she



1 came down from records -- came down and met with you and  
2 your children on -- October 15th, I believe, was the  
3 date she arrived in Sacramento.

4 Do you recall her coming, in that time frame, to  
5 Sacramento?

6 A I do.

7 Q Now, before that, did you have any telephone  
8 conversations with Detective Krause?

Objection  
-FRE 802 hearsay  
-Dkt. 202 at 4

9 A I think there were a couple.

10 Q Did she ask you some questions about your  
11 marriage to Ray in those conversations?

12 A She did.

13 Q Did she ask you some questions about any  
14 infidelities that happened during the time of that  
15 marriage?

16 A She did.

17 Q Did she ask you about a woman named Rhonda  
18 Short?

19 A She did.

20 Q Okay. And who is Rhonda Short?

21 A Rhonda was a next-door neighbor when we lived in  
22 L.A.

Objection  
-Dkt. 202 at at  
2-3 (moving to  
bar any and all  
evidence  
and testimony re  
Rhonda Short).  
FRE 402,  
403, and 404.

23 Q And how old was Rhonda when you lived next door  
24 to her?

25 A We were there for six years. So when we left,



1 she was about 17.

2 Q She was a minor?

3 A Correct.

4 Q Okay. Was she in high school?

5 A Correct.

6 Q And how would you describe, based on your  
7 recollection of Ms. Short, her mental capacity? Was  
8 she -- and, again, based on your academic training and  
9 work experience with children and adolescents, do you  
10 recall her mental capacity as being that of, say, the  
11 average 17-year-old adolescent female?

12 MS. ZELLNER: Objection. She's not testifying  
13 as an expert.

14 MS. FETTERLY: You can answer, if you can.

15 THE WITNESS: I can't -- I can't attest to her  
16 mental ability. But in my observation, she was  
17 emotionally about 14.

18 BY MS. FETTERLY:

19 Q Would you describe her as somewhat of a  
20 vulnerable young lady?

21 A Yes.

22 Q Okay. And what did you tell Sharon Krause just  
23 about Rhonda Short?

24 A I told her about an incident where Rhonda had  
25 accused Ray of raping her.

Continued objection;  
additional basis for  
objection to lines  
6-21: improper lay  
witness testimony.

Additional basis  
for objection to  
lines 22-25:  
hearsay.

1 Q And this conversation about Rhonda Short and  
2 some other things took place with Sharon Krause before  
3 she came to Sacramento?

Continued objection

4 A Correct.

5 Q Okay. And we've -- you've testified that you  
6 recall Ms. Krause coming to Sacramento on or about  
7 October 15th or 16th of 1984?

8 A Correct.

9 Q And was this prearranged that she would come  
10 down to meet with you?

11 A Yes.

12 Q Was she also going to meet with your children?

13 A Yes.

14 Q Did you explain anything about the fact that she  
15 would be coming to your children?

16 A I don't recall.

17 Q Okay. Did she come to your home?

18 A She did. She met me at my home, and we drove  
19 over to my mother's house to pick up my kids and come  
20 back to my house.

21 Q And what was your impression on first meeting  
22 her when she came to your home? Records document that  
23 this was on October 16th, 1984. Does that sound  
24 accurate to you?

25 A Yes.

Objection  
-FRE 402,  
403, and 404.  
Ms.  
Spencer's  
impression is  
irrelevant  
character  
evidence.



1 Q Okay. What was your impression of Ms. Krause  
2 when she came to your home?

3 A That she was professional and -- well, that she  
4 conducted herself in a very professional manner.

Continued  
objection

5 Q Did she ask your permission to interview your  
6 children?

7 A She did.

8 Q Did she indicate that she wanted to interview  
9 them without you being present?

10 A After she talked with us, she did ask would --  
11 could see take Katie to speak to her privately.

12 Q And did she explain why she thought it was  
13 important to speak to Katie privately? I mean, she was  
14 someone that Katie had -- would be -- really was a  
15 stranger to Katie; would you not agree?

16 A Agreed.

17 Q Did Ms. Krause explain why this was necessary?

18 A To the best of my recollection, I think she said  
19 something to the effect that she felt Katie would be  
20 more comfortable if I wasn't in the room with her.

21 Q And how did you feel about that? Did you have  
22 any hesitation about her?

23 A I did not.

24 Q Okay. And did -- was there an opportunity for  
25 Ms. Krause to meet Katie in your presence before they